

Subpart C—Dependent Support**§ 818.12 General policies.**

Members are expected to pay their financial obligations in a proper and timely manner. Dependent support, direct or in-kind, is a primary element of an individual's personal financial obligations. Failure to provide adequate dependent support, including the failure to make up arrears in support, is the proper subject of command consideration for disciplinary or administrative action.

(a) Air Force members are expected to comply with the financial support provisions of a court order or written support agreement. If the validity of either is questioned by the member, the issue must be resolved by the parties or through the civil courts. The Air Force does not arbitrate such disputes. Written agreements include such things as separation agreements, property settlement agreements, and correspondence in which the amount of support has been agreed to by the parties concerned.

(b) Air Force members are expected to provide adequate support for dependents in the absence of a court order or written support agreement. The amount of support is generally based on the dependent's needs (for example, food, clothing, shelter, medical care, and so forth) and the ability of the member to pay. Each Air Force member is expected to provide support in an amount, or kind, bearing a reasonable relation to the needs of the dependents and the ability of the member to meet those needs.

(1) The Air Force has no legal authority to arbitrate the amount of support to be provided or to unilaterally deduct money from a member's pay to ensure dependent support.

(2) Commanders must assess the actions of the member with respect to their ability to pay and compliance with Air Force policy.

(i) For example, an individual who purchases a new car for personal use and then claims an inability to provide dependent support because of financial constraints ordinarily would not be viewed as being in compliance with Air Force policy.

(ii) Further, an individual who acknowledges an existing obligation and initiates an allotment for future support but does not provide for past periods of nonsupport ordinarily would not be viewed as being in compliance with Air Force policy.

(3) Commanders must assess the member's compliance with Air Force policy when a family is separated either by choice or due to an assignment action (for example, member volunteers for a dependent-restricted overseas area, elects to serve an unaccompanied tour, early returns dependents from an overseas area, is absent as a result of lengthy temporary duty, and so forth).

(c) Examples of in-kind support includes such things as making the mortgage or rent payments on a home occupied by the dependents, making the payments on an automobile being used by the dependents, paying medical bills, paying for school tuition, and so forth.

(d) Dependents, including ex-spouses on behalf of a member's dependent child or children, are entitled to military legal counseling services and are encouraged to seek such advice when needed.

(e) The member's obligation to support a child or children is not affected by desertion or other misconduct on the part of the spouse or ex-spouse.

(f) Members are expected to initiate changes of address for support allotments and process appropriate applications for issue or renewal of dependent identification cards in a timely manner when requested to do so by or on behalf of dependents.

§ 818.13 Proof of support.

Generally, proof of dependent support is not required. However, on receipt of a complaint of nonsupport or inadequate support from, or on behalf of, a dependent for whom the member is receiving basic allowance for quarters (BAQ), proof of support is required.

§ 818.14 Basic Allowance for Quarters (BAQ).

Under the DOD Military Pay and Allowances Entitlements Manual (DODPM), paragraph 30236, BAQ is not payable on behalf of a dependent whom

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a member refuses to support. Failure to support a dependent on whose behalf BAQ is being received requires recoupment for periods of nonsupport. Members should be informed of this provision and be advised that refusal or failure to support dependents requires administrative termination of BAQ entitlement at the with dependents rate.

(a) BAQ termination at the with dependents rate does not relieve a member of responsibility for providing dependent support.

(b) Commanders must assess the member's compliance with Air Force policy in those situations where the member would not otherwise be authorized the BAQ entitlement. For example, member is residing in government quarters and has no other dependents.

§ 818.15 Garnishment.

Federal law authorizes legal process against the Air Force only for the enforcement of child support and alimony payments according to state law. Service of legal process must be accomplished by certified or registered mail, return receipt requested, or by personal service. The Commander, Air Force Accounting and Finance Center, Attention: JA, Denver CO 80279-5000, telephone (303) 370-7524, is the agent designated to accept legal process within the Air Force for active duty, Reserve, and retired military members.

(a) Legal process is defined as any writ, order, summons, or other similar process in the nature of garnishment issued by:

(1) A court of competent jurisdiction within any state, territory, or possession of the United States; or

(2) A court of competent jurisdiction in any foreign country with which the United States has entered into an agreement that requires the United States to honor such process; or

(3) An authorized official pursuant to an order of such court of competent jurisdiction or pursuant to state or local law. (See 42 U.S.C. 659, 662.)

(b) Process directed for garnishment must demonstrate, either on its face or by accompanying documentation, that collection is sought only for child support or alimony or both. The process must also show the member's Social

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Security number and whether the member is active duty, Reserve, or retired.

(c) If the validity of a court's order is questioned by the member concerned, the issue must be resolved by the parties or in court by the member or his or her private attorney. The Air Force has no authority to resolve such disputes.

§ 818.16 Statutory allotments.

An active duty member's pay and allowances are subject to a mandatory allotment to satisfy child or child and spousal support obligations where payments are in arrears for at least 2 months.

(a) A statutory allotment, pursuant to federal law, may be accomplished by the Air Force Accounting and Finance Center upon their being furnished a written notice from a court or state agency with responsibility for administering child support programs under title IV-D of the Social Security Act.

(b) The notice and the following documents or information must be served on the Commander, Air Force Accounting and Finance Center, Attention: JA, Denver CO 80279-5000:

(1) A statement that the person signing is an agent or an attorney of the state having a title IV-D plan who has the duty or authority under such plan to seek to recover amounts owed by a member as child or child and spousal support or a notice from a state court or any agent of the court who has authority to issue an order against a member for the support of a child.

(2) The service member's full name and Social Security number.

(3) A recently certified copy of the order awarding support must be included with the notice and a statement that the support payments are in arrears at least 2 months.

(4) A court order showing the amount of the arrears and specifying that payments be made to liquidate such arrears.

(5) The total amount of the allotment (the amount to be paid for current support and the amount to be paid each month towards arrears must be specified), the date or dates that the current support should terminate (for each